

**MINUTES  
BOARD OF ADJUSTMENT  
CITY HALL COUNCIL CHAMBERS  
116 W. NEEDLES AVE.  
BIXBY, OK 74008  
April 07, 2014 6:00 PM**

**STAFF PRESENT:**

Erik Enyart, AICP, City Planner  
Patrick Boulden, Esq., City Attorney

**ATTENDING:**

See attached Sign-in Sheet

**CALL TO ORDER**

Meeting called to order by Chair Jeff Wilson at 6:04 PM.

**ROLL CALL**

Members Present: Jeff Wilson, Dave Hill, Darrell Mullins, and Larry Whiteley.

Members Absent: Murray King.

**MINUTES**

1. Approval of Minutes for January 06, 2014

Chair Jeff Wilson introduced the item and asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE the Minutes of January 06, 2014 as presented by Staff. Dave Hill SECONDED the Motion. Roll was called:

**ROLL CALL:**

AYE: Mullins, Wilson, Whiteley, & Hill

NAY: None.

ABSTAIN: None.

MOTION CARRIED: 4:0:0

**OLD BUSINESS**

Chair Jeff Wilson asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

## NEW BUSINESS

2. **BBOA-586 – Thomas Black.** Discussion and possible action to approve a Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 1,200 square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District.

Property located: Lot 1, Block 1, *Henry Fergeson Addition*; 8301 E. 131<sup>st</sup> Pl. S.

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Chair Jeff Wilson introduced the item and called on Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

**To:** *Bixby Board of Adjustment*  
**From:** *Erik Enyart, AICP, City Planner*  
**Date:** *Thursday, April 03, 2014*  
**RE:** *Report and Recommendations for:  
BBOA-586 – Thomas Black*

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LOCATION: – *Lot 1, Block 1, Henry Fergeson Addition*  
– *8301 E. 131<sup>st</sup> Pl. S.*

LOT SIZE: *1/3 acre, more or less*

ZONING: *RS-1 Residential Single-Family District*

REQUEST: *Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 1,200 square foot accessory building in the rear yard for property in the RS-1 Residential Single-Family District*

**SURROUNDING ZONING AND LAND USE:**

North: *CG, RS-1, & CS; Vacant/agricultural land zoned CG and (to the northeast) RS-1 and CS.*

South: *RS-1; Single-family residential in Henry Fergeson Addition and Gardenview Addition, and (to the southwest), the Riverview Missionary Baptist Church in part of Gardenview Addition zoned RS-1 and on unplatted property zoned CG.*

East: *RS-1; Single-family residential in Henry Fergeson Addition.*

West: *CG; Commercial businesses along Memorial Dr., including the Kum & Go gas station, the KC Auto Repair automobile repair business, the South Plaza Center shopping center, and the building complex containing the Green Acres Sod Farm, Inc. Corporate Office and the Sam's Hamburgers & Chili restaurant.*

**COMPREHENSIVE PLAN:** *Low Intensity + Residential Area*

**PREVIOUS/RELATED CASES:** *(none found)*

**RELEVANT AREA CASE HISTORY:** *(not necessarily a complete list, and does not include Lot-Split cases)*

BZ-34 – L.C. Neel – *Request for rezoning from RS-1 to CG for 3.5 acres to the west/southwest of subject property (now the South Plaza Center shopping center and the building complex containing the Green Acres Sod Farm, Inc. Corporate Office and the Sam's Hamburgers & Chili restaurant) – PC Recommended Approval 03/17/1975 and Town Board of Trustees Approved 05/06/1975 (Ord. # 292).*

BZ-62 – Vernon L. Morgan – *Request for rezoning from RS-1 to CG for approximately 1 acre to the northwest of subject property (now the Kum & Go gas station and the KC Auto Repair business) – PC Recommended Approval 01/30/1978 and Town Board of Trustees Approved 08/07/1978 (Ord. # 361).*

BBOA-94 – Rowdy Vance Dorris – *Request for Variance from bulk and area requirements pertaining to Lot-Split(s) (cf. BL-63) for a ½-acre tract to the east of subject property at 8315 E. 131<sup>st</sup> Pl. S. – BOA Conditionally Approved 12/14/1981 per case notes.*

BZ-129 – Watkins Sand Co., Inc. – *Request for rezoning from RS-1 to CG for approximately 1.25 acres to the southwest of subject property (now part of Riverview Plaza) – PC Recommended Approval 01/31/1982 and City Council Approved 02/07/1983 (Ord. # 472).*

BZ-144 – Verline McClatchey – Request for rezoning from RS-1 to RM-2 for Lot 3, Block 1, Henry Fergeson Addition, located two (2) houses to the east of subject property at 8327 E. 131<sup>st</sup> Pl. S. – PC Recommended Denial 09/26/1983. Evidence of City Council consideration not found in case file, but no Ordinance found corresponding to this application.

BZ-150 – William E. Buffington – Request for rezoning from RS-1 to RM-3 for apartments for 2.5 acres (the W/2 E/2 NE/4 NW/4 of this Section) to the east of subject property at 8410 E. 131<sup>st</sup> St. S. – PC Recommended Denial 01/30/1984 and City Council Denied 04/10/1984.

BZ-157 – Albert Dorris – Request for rezoning from RS-1 to CG for apartments for 0.4 acres to the northeast of subject property at the 8300-block of E. 131<sup>st</sup> St. S. – PC Recommended Approval of CS 12/17/1984 and City Council Approved 01/08/1985 (Ord. # 520).

BBOA-142 – Ray A. Bliss for Watkins Sand Co., Inc. – Request for Special Exception to allow a horticultural nursery in a CG district on approximately 1.25 acres to the southwest of subject property (now part of Riverview Plaza) – BOA Conditionally Approved 02/18/1985 per case notes.

BZ-173 – Mark Sherman for William E. Buffington & M. Martindale – Request for rezoning from RS-1 to CS for 2.5 acres (the W/2 E/2 NE/4 NW/4 of this Section) to the east of subject property at 8410 E. 131<sup>st</sup> St. S. – Advertised for 05/27/1986 Public Hearing before PC. However, no ordinance and no record found in case file as to PC or City Council disposition. See BZ-264.

BZ-194 – Brewer Construction for Mildred Mattlock – Request for rezoning from RS-1 to CG for approximately 1 acre (the N/2 W/2 E/2 NW/4 NW/4 of this Section) abutting subject property to the north at the 8200-block of E. 131<sup>st</sup> St. S. – PC Recommended Approval 01/15/1990 and City Council Approved 02/12/1990 (Ord. # 642).

BZ-264 / PUD 27 – “South Memorial Center” – Sherten, LLC – Request for rezoning from RS-1 to CG and approval of PUD 27 for 2.5 acres (the W/2 E/2 NE/4 NW/4 of this Section) for a mini-storage development to the east of subject property at 8410 E. 131<sup>st</sup> St. S. – PC Recommended Approval 02/22/2000 March 2000 and City Council Approved 03/27/2000 (Ord. #s 810 and 811). Legal description error discovered in PUD 27/Ord. # 811 and case re-advertised for re-approval with correct legal description in 2008. PC Recommended Approval 07/21/2008 and City Council Approved 08/11/2008 (Ord. # 1005 corrected by Ord. # [1005-A] 11/24/2008).

BZ-268 – Rob Brewer – Request for rezoning from CS to CH for 0.4 acres to the northeast of subject property at the 8300-block of E. 131<sup>st</sup> St. S. – PC Tabled 11/20/2000 and no ordinance and no record found suggesting application further pursued.

BBOA-253 – Jack Selby – Request for Variance of the 600 square foot maximum floor area for detached accessory building in the RS-1 district to permit the existing 720 square foot accessory building for property located to the south of subject property at 8300 E. 133<sup>rd</sup> St. S., Lot 1, Block 3, Gardenview Addition – BOA Approved 07/06/1992 per case notes.

BBOA-265 – Diane Sheridan – Request for Special Exception to allow the replacement of a mobile home with a new mobile home in the RS-1 district on approximately 1/3 acre to the northeast of subject property in the 8300-block of E. 131<sup>st</sup> St. S. (but addressed 8150 E. 131<sup>st</sup> St. S.) – Withdrawn by Applicant 07/20/1993.

BBOA-408 – Abbas Momeni – Request for Variance from a ground sign setback requirement for the Car Country used automobile sales lot at 13288 S. Memorial Dr. to the southwest of subject property – BOA Approved 09/02/2003.

BBOA-424 – Gary Fleener for Yale 31 Corporation – Request for Special Exception for a Use Unit 5 preschool/daycare center in an RS-1 district for property located to the west of subject property at 13164 S. Memorial Dr. – BOA Approved 07/13/2004.

BBOA-452 – Jim Capps for Riverview Missionary Baptist Church, Inc. – Request for Variance to allow a manufactured or modular building to be used as a classroom for Riverview Missionary Baptist Church to the southwest of the subject property – Withdrawn in April, 2007.

BBOA-574 – John Filbeck for Riverview Missionary Baptist Church, Inc. – Request for Variance from certain signage restrictions for a Use Unit 5 church in the RS-1 Residential Single-Family District, allowing a replacement ground sign with LED / Electronic Message Center (EMC) for property located to the southwest of subject property at 13201 S. Memorial Dr. – BOA Approved 04/01/2013.

#### BACKGROUND INFORMATION:

#### ANALYSIS:

Subject Property Conditions. The subject property is composed of Lot 1, Block 1, Henry Fergeson Addition, contains approximately 1/3 acre, and is zoned RS-1 Residential Single-Family District. The Henry Fergeson Addition was reviewed by the Tulsa Metropolitan Area Planning Commission (TMAPC) on August 04, 1957 and was platted August 28, 1957, presumably in unincorporated Tulsa County. The parcel contains an existing house addressed 8301 E. 131<sup>st</sup> Pl. S. According to the Tulsa County Assessor's parcel records, the house was constructed in or around 1960.

Tests and Standard for Granting Variance. Oklahoma State Statutes Title 11 Section 44.107 and Bixby Zoning Code Section 11-4-8.A and .C together provide the following generalized tests and standards for the granting of Variance:

- Unnecessary Hardship.
- Peculiarity, Extraordinary, or Exceptional Conditions or Circumstances.
- Finding of No Substantial Detriment or Impairment.
- Variance would be Minimum Necessary.

Nature of Variance. The Applicant is requesting a Variance from the accessory building maximum floor area per Zoning Code Section 11-8-8.B.5 to allow a new 30' X 40' (1,200 square foot) accessory storage building for property in the RS-1 Single-Family Dwelling District.

Zoning Code Section 11-8-8.B.5 provides:

"5. In the RE and RS districts, detached accessory buildings may be located in a rear yard, provided the accessory building(s) in the aggregate do not cover more than twenty percent (20%) of the area of the rear yard or exceed eight hundred (800) square feet of floor area, whichever is less.

No accessory building shall exceed the height of the primary dwelling on the lot.

In the RE and RS districts, lots containing at least one acre of lot area shall be permitted to exceed the eight hundred (800) square foot floor area limitation by 11.6 percent. Further, lots containing 1.25 acres or more of lot area shall be permitted to exceed eight hundred (800) square feet by an additional 11.6 percent for each one-fourth (1/4) of an acre over one acre, provided that in no case shall accessory building(s) in the aggregate exceed the square footage of the first floor of the primary dwelling or two thousand four hundred (2,400) square feet, whichever is less, or cover more than twenty percent (20%) of the area of the rear yard. (Ord. 2031, 12-21-2009)"

As the subject property is in the RS-1 residential zoning district and contains approximately 1/3 acre, the maximum allowable detached accessory building size is 800 square feet.

The "sliding scale" was introduced as a measure of flexibility, along with an increase in the basic maximum square footage from 750 square feet to 800 square feet, by Ordinance # 2031, approved December 21, 2009. It was designed to allow people to have larger accessory buildings, if they had enough land so that the accessory building did not dominate the parcel aesthetically and so detract from the neighborhood. The "sliding scale" was calculated in order to start at 800 square feet and increase regularly for each 1/4 acre increment to the maximum of 2,400 square feet, which requires a lot containing slightly more than 3.25 acres.

This is the seventh application for Variance which has been received since the added flexibility was created, and it is requesting a Variance to exceed even the new flexibility. The first was BBOA-550 – Mitch & Gail Pilgrim, which the Board approved 12/05/2011 for that property located in Bixhoma Lake Estates. The second was BBOA-558 – John Ryel, which the Board approved 05/07/2012 for that property located in the Houser Addition. On August 06, 2012, the Board of Adjustment denied an application to build a 5,000 square foot addition to an existing 900 square foot accessory building for an unplatted 1-acre tract at 14426 S. Harvard Ave. (BBOA-565 – Robert Campbell III & Karen M. Campbell). On October 01, 2012, the Board approved BBOA-568 – Roger O. Nunley, Jr., allowing allow a new 960 square foot addition to an existing 2,000 square foot accessory structure for property in the RS-1 District at 8703 E. 124<sup>th</sup> St. S. in Southern Memorial Acres No. 2. On April 01, 2013, the Board approved BBOA-572 – Spencer Thompson, allowing a new 30' X 50' (1,500) square foot accessory building in the rear yard of property of 0.625 acres in the RS-1 District at 7702 E. 131<sup>st</sup> St. S., and also approved BBOA-575 – Blake Fugett, allowing a new 40.25' X 60.25' (2,425) square foot accessory building in the rear yard for property of 1.2 acres in the RE District at 5257 E. 161<sup>st</sup> St. S.

Unnecessary Hardship. The Applicant claims that an Unnecessary Hardship would be caused by the literal enforcement of the Zoning Code because "131st runs parallel beside the commercial property that is directly to the north behind my home. This property was covered in large trees and thick brush;

recently cleared to the dirt to allow unauthorized access and noise to impact my home. I am unable to conceal my home and property; and desire [it to] be safe and secure from thieves. There has been two robberies in this [addition] with witnessed Trespasser[s] jumping fenced yards to gain access to the neighborhood. The current zoning code prohibits and restricts allowances for a detached storage building with the capacity and size appropriate to properly secure my personal property.”

The argument appears to be that the failure to be granted Variance would deprive the owner of the right to construct accessory building exceeding the maximum, and as a result, lack of the desired concealment and security for personal property. Staff does not dispute that this claim is true, and may amount to an Unnecessary Hardship.

Peculiar, Extraordinary, or Exceptional Conditions or Circumstances. The Applicant responded to the question asking how the subject property and its Condition or Situation is Peculiar, Extraordinary, and/or Exceptional by stating, “My property is surrounded by high traffic commercial property on two sides which poses significant threat of vandalism and theft of my personal property. My property has public open access from the north to 131st with constant loud traffic noise; adjacent to the property line on the west side is a shopping strip mall with 24 hour convenience store, liquor store, 2 restaurants.”

The provided argument is self-explanatory.

Elsewhere in the application, the Applicant notes that there is commercial[ly-zoned] property abutting to the north that was recently cleared of vegetation, which previously helped provide a natural concealment of the real and personal property from the perspective of the highly-trafficked 131<sup>st</sup> St. S. If the property continued to be naturally concealed as it was before, it stands to reason there would be less of a need/desire for added security. This argument would also appear to apply here.

Also, the Henry Fergeson Addition’s neighborhood is relatively small and has above-average-sized lots, and is served by a dead-end street system (83<sup>rd</sup> E. Ave. and 131<sup>st</sup> Pl. S.). There are nine (9) lots platted in the addition, with two (2) “Lot-Split” tracts extending the neighborhood one (1) house to the east on both sides of the extended 131<sup>st</sup> St. S. Commercial property (developed and undeveloped) abuts the subject property to the north, northwest, west, and southwest. When the commercial property to the north is developed, the future building(s) will likely obscure the view of the storage building from the perspective of 131<sup>st</sup> St. S. For all these reasons, the impact of an oversized storage building would appear to be relatively limited.

Finding of No Substantial Detriment or Impairment. The Applicant claims that the requested Variance would Not Cause Substantial Detriment to the Public Good or Impair the Purposes, Spirit and Intent of the Zoning Code or the Comprehensive Plan because “The detached building will be used to conceal and secure personal property and replace an existing small shed now located in the backyard. This structure will allow me to remove debris, store equipment, and enhance the landscaping view of my property from the north which faces the road-131st.”

Elsewhere on the application form, the Applicant has further addressed this question thus, “Approval of this request will enhance the overall value of my property and the property to which it surrounds and enhance the overall appearance. This building will block the view of neighboring properties and limit the unauthorized access to improve citizen safety in a high traffic area. This building will serve as a barrier and reduce the constant loud traffic noise from Memorial Dr.”

The provided arguments are self-explanatory.

Of the several fundamental purposes for imposing maximum accessory building size and rear yard placement restrictions, Staff believes the primary reason is for the sake of consistency of design, proportionality, and mode of placement of structures (aesthetics).

Per the provided site plan, the building is proposed to be constructed in the rear yard at the northeast corner of the lot.

Per the provided photographs, there are several objects currently stored in the rear yard which would be removed (10’ X 12’ wood shed) or otherwise will or could be stored in the replacement storage building, such as a couple RVs and a hauling-trailer. Staff agrees with the Applicant’s suggestion that, from an aesthetic standpoint, one (1) large storage building may be preferable to all of these existing objects likely currently stored on dirt.

Finding of Minimum Necessary. The Applicant claims that the requested Variance would be the Minimum Necessary to Alleviate the Unnecessary Hardship because “This 1200 Sqft building will be a permanent fixture withstanding of severe weather, for personal use to conceal and secure property. Neighbors to the East have erected large structures for similar reasons. This building will also provide some noise barrier to improve the quality of life within my home and decrease unauthorized access to the

*neighborhood and improved citizen safety within. See plat & planning plat diagram attached. The existing 10x12x8 wood shed is located on N[W] corner of the property and will be replaced by a metal building 30x40x10 to be located on the NE side of property."*

*The provided argument is self-explanatory, but may not address the question. The final sentences notes that the larger storage building would replace a smaller one, with dimensions provided.*

*Recognizing the intent behind the "sliding scale" flexibility provision, Staff believes it should be somewhat more difficult to justify this test and standard. If the Board is amenable to this application, it must find that the proposed 1,200 square feet of accessory building, 50% larger than the 800 square foot maximum, is the Minimum Necessary to Alleviate the Unnecessary Hardship. Alternatively considered, subject property is six (6) times smaller than the two (2) acre minimum required to be permitted a 1,200 square foot accessory building.*

*Staff Recommendation. Except as noted otherwise hereinabove, Staff believes that the arguments provided by the Applicant and Staff appear to substantially meet some of the tests and standards of the Zoning Code and State Statutes. To the extent the arguments are found lacking, the Board may wish to consider other arguments that the Applicant and Board may discover during public hearing and consideration of this case at the meeting.*

Erik Enyart noted that the Applicant had expressed desire to conceal and secure his personal property. Mr. Enyart noted that the property was somewhat unique in that it previously had natural vegetative screening, to the north, but that it was recently cleared. Mr. Enyart noted that the property was further somewhat unique in that there was an existing storage building and personal property that the Applicant indicated would be removed or relocated into the new building, if approved.

Chair Jeff Wilson asked if the Applicant was present and wished to speak on the item. Applicant Thomas Black of 8301 E. 131<sup>st</sup> Pl. S. was present, described certain items of personal property which would be stored within the new building, and expressed desire for the approval of his application.

April Borgstedt of 8301 E. 131<sup>st</sup> Pl. S. expressed concern for traffic and vehicular and pedestrian trespassers, including from the commercial area to the west, and stated that she did not feel that persons or property were as safe [as before the property to the north was cleared]. Ms. Borgstedt stated that there had been criminal activity down the street, and expressed concern that there was a liquor store, pizza shop, and other business(es) that were open for 24 hours [to the west]. Ms. Borgstedt stated that the area by the [83<sup>rd</sup> E. Ave.] dead-end street "floods," and expressed interest in relocating personal property away from that area.

Thomas Black indicated that there had been more drainage problems since certain properties to the west were [re-]developed, and stated that there was now a pipe from one such property draining a parking lot toward his property.

April Borgstedt stated that the building would be a prefabricated metal shop/storage building, and would clean up the area and bring it out of the area that floods.

Larry Whiteley asked the Applicant if they had a contractor, and April Borgstedt responded that "Lucas Metals" would supply the building and Lamproe Construction would be the contractor. Ms. Borgstedt described storage building(s) already on the subject property. Mr. Whiteley stated, "You need two-thirds more property [than] you've got." Ms. Borgstedt stated that there was also a boat, camper, and trailer on the property.

Chair Jeff Wilson recognized Georgia Jackson of 8333 E. 132<sup>nd</sup> St. S. from the Sign-In Sheet. Ms. Jackson stated that she had lived in the neighborhood for 60 years, and that it “floods every time they build something.” Ms. Jackson stated that 1,200 square feet “is a house.” Ms. Jackson stated that she observed more flooding every time the church repaved their parking lot.

Dave Hill asked Georgia Jackson where she lived, and Ms. Jackson responded she lived in the *Gardenview Addition* on 132<sup>nd</sup> St. S.

Michael Jackson of 8333 E. 132<sup>nd</sup> St. S. asked if the building would be commercial and stated that his concern was more water [runoff onto his property].

Chair Jeff Wilson asked if the property drained to the north, and Thomas Black responded affirmatively.

Patrick Boulden expressed concern that hardship had not been shown. Mr. Boulden described arguments that were insufficient for showing hardship, including fiscal hardship. April Borgstedt expressed concern for security due to the surrounding neighborhood and desire for the building. Discussion ensued.

Darrell Mullins asked what the benefit would be [if the Variance was granted], and April Borgstedt responded, “containment,” and described personal property which would be contained within the building.

Discussion ensued regarding drainage. Erik Enyart recognized that inadequate drainage appeared to be a topic of concern to the Board, and stated that it would be well within the Board’s authority, if it was inclined to approve the Variance, to require drainage review and approval by the City Engineer.

Erik Enyart addressed Patrick Boulden and stated that, as to his concern for lack of hardship being shown, the Applicant had expressed in the application that their hardship would be that they wouldn’t be permitted the building of the size requested.

Erik Enyart addressed the Board and stated that the Applicants had expressed desire to protect their personal property from the elements and from other people, asserted that it would contain personal property already on the property, and that they would remove the existing storage building, which would mitigate the amount of Variance being requested.

Chair Jeff Wilson asked how big the existing storage building was, and it was described as 10’ X 12’, and the RV and other personal property objects were also dimensionally described.

Discussion ensued.

Erik Enyart stated that the City Engineer would make sure that the new building would not increase the pre-development rate of flow, and that normally takes the form of a stormwater drainage and detention facility.

Darrell Mullins asked Erik Enyart if this would not require a hydrology study. Mr. Enyart responded that larger commercial sites do require an engineering model of the drainage basin upstream and downstream and a determination of the impact of development, but for a smaller site such as this, there is “probably an abbreviated way to answer that.”

Dave Hill asked when [*Sam’s Hamburgers & Chili*] and the Green Acre [Sod building] were constructed. Erik Enyart responded that he did not know when they were built or [under what conditions].

Upon clarification with Erik Enyart, Dave Hill made a MOTION to APPROVE BBOA-586 subject to drainage review by the City Engineer. Patrick Boulden stated that the Motion died for lack of a Second. Mr. Hill expressed objection to the timing of Mr. Boulden’s statement and suggested more time would have allowed for a Second. Discussion ensued. Chair Jeff Wilson indicated time would be allowed for a Second. After a moment had passed. Chair Jeff Wilson recognized the Motion died for lack of a Second. Discussion ensued.

Dave Hill out at 6:38 PM.

Discussion ensued regarding the size of the building and the size of the lot. Larry Whiteley suggested 1,000 square feet could be approved.

Erik Enyart stated, “If the Board is discussing giving less than what was requested, we’re getting into matters of proportionality.” Mr. Enyart noted that it had occurred to him during the discussion previously that there is one size standard for all RS and RE districts, 800 square feet with the sliding scale for larger lots. Mr. Enyart noted that the RS-4 district allows lots as small as 50’ by about 100’, and so a new lot today could be about 5,000 square feet, or about 11/100ths of an acre.<sup>1</sup> Mr. Enyart observed that this 0.11 acre lot would be allowed the same 800 square feet as the subject property, which had about 1/3 of an acre. Mr. Enyart noted that the subject property equaled this 0.11-acre by a factor of three (3), and suggested that this be factored into the Board’s calculus.

Discussion ensued.

A question was raised as to the source of the maximum accessory building size. Erik Enyart responded that, as best he could recall seeing, there had been a maximum accessory building size since the original Zoning Ordinance in the early 1970s. Mr. Enyart stated that he believed it started out at 600 or 650 square feet, and was later revised up to 700 or 750 square feet, and that, in 2009, it was revised up again with the baseline starting at 800 square feet and going up from there using a sliding scale based on lot size, with the threshold for the first ‘bump up’ at one (1) acre. Erik Enyart stated, “Usually, if you keep getting Variances for one part of the Code, you need to look at it” for possible amendment. Mr. Enyart noted that the sliding scale was implemented in 2009 because the City kept granting Variances to exceed the maximum size. Mr. Enyart stated that “hindsight is 20/20,” and that, if in 2009 when this section of Code was amended to increase the size and add a sliding scale, had been known that there would be so

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<sup>1</sup> Research of the Zoning Code after the meeting discovered the minimum lot size required in RS-4 is 5,500 square feet, and so the minimum lot depth at 50’ would be 110’; Zoning Code Section 11-7B-4.A.1 Table 3.



many Variances granted since, perhaps it would have started at a larger maximum and/or the sliding scale could have started at a lower threshold. Mr. Enyart noted that this was the seventh Variance request since the 2009 amendment, and five (5) of the previous six (6) had been granted.

Thomas Black asked if he could also have a carport, and Larry Whiteley indicated favor for the idea and suggested it could make up the difference between the 1,000 square feet he suggested and the 1,200 square feet requested. Erik Enyart responded, “Yes, attached or detached, it can also be permitted.” Mr. Black indicated agreement.

Larry Whiteley made a MOTION to APPROVE BBOA-586, limited to 1,000 square feet, and subject to the City Engineer’s drainage review and approval. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:  
AYE: Mullins, Wilson, & Whiteley  
NAY: None.  
ABSTAIN: None.  
MOTION CARRIED: 3:0:0

ADJOURNMENT

Chair Jeff Wilson asked to entertain a Motion to Adjourn. Larry Whiteley made a MOTION to ADJOURN. Chair Jeff Wilson SECONDED the Motion. Roll was called:

ROLL CALL:  
AYE: Mullins, Wilson, & Whiteley  
NAY: None.  
ABSTAIN: None.  
MOTION CARRIED: 3:0:0

The meeting was Adjourned at 6:47 PM.

APPROVED BY:

\_\_\_\_\_

Chair

\_\_\_\_\_

Date

\_\_\_\_\_

City Planner/Recording Secretary